

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

JEANNE HERRINGTON,

Petitioner,

v.

CIVIL ACTION NO. 1:16-cv-03617

BARBARA RICKARD, Warden,  
Alderson FPC,

Respondent.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this matter was referred to United States Magistrate Judge Cheryl A. Eifert for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. No. 3.)

Magistrate Judge Eifert submitted to the court her PF&R on October 13, 2016, in which she recommended that the Court deny Petitioner's Application to Proceed Without Prepayment of Fees and Costs; deny Petitioner's Petition for Default; deny the Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241; and dismiss this action, with prejudice, and remove it from the docket of the court.

In accordance with 28 U.S.C. § 636(b), the parties were allotted seventeen days in which to file any objections to Magistrate Judge Eifert's PF&R. The failure of any party to

file such objections within the time allotted constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). Neither party filed any objections to the Magistrate Judge's PF&R within the required time period.

Accordingly, the court adopts Magistrate Judge Eifert's PF&R as follows:

- 1) Petitioner's Application to Proceed Without Prepayment of Fees and Costs (Doc. No. 1), is **DENIED**;
- 2) Petitioner's Petition for Default (Doc. No. 4), is **DENIED**;
- 3) Petitioner's Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Doc. No. 2) is **DENIED**; and
- 4) The Clerk is directed to remove this matter from the docket of the court.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable.

Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683–84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and to Petitioner.

It is **SO ORDERED** this 1st day of February, 2017.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge